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Customer Number

24024

Irene Smith

(Print Name)

Irene Smith

(Signature)



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Zapushek

Serial No.: 09/780,536

Filed: February 12, 2001

For: PIN LOCKING DEVICE & METHOD
OF LOCKING

Attorney Docket No.: 27475/04679

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Art Group: 3676

Examiner: S. Barrett

Confirmation No.: 8389

**TRANSMITTAL OF PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(B)**

Mail Stop Petition
Commissioner of Patents
Alexandria, Virginia 22313-1450

Transmitted herewith are the following:

1. Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b);
2. Amendment after Final;
3. Statement of Facts in support of petition;
4. Copy of Prior Petition and Statement of Facts
5. Copy of Decision on Petition; and
6. Return Receipt Postcard.

It is believed that no further fee is required relating to the filing of these documents. If this is not the case, the Patent Office is hereby authorized to charge any related fee to Deposit Account No. 03-0172. A duplicate copy of this sheet is attached.

Respectfully submitted,

Date: 7/26/04

By: *Douglas B. McKnight*
Douglas B. McKnight, Reg. No. 50,447
216/622-8559



DAC
IFW
A

PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 27475/04679
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First named inventor: **Zapushek**

Application No.: **09/780,536**

Art Unit: **3676**

Filed: **February 12, 2001**

Examiner: **S. Barrett**

Title: **PIN LOCKING DEVICE & METHOD OF LOCKING**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1330 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Amendment after Final (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

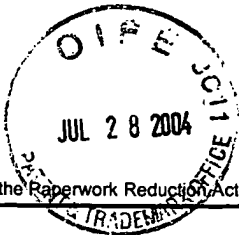
B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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07/29/2004 HAL111 00000102 09780536 1330.00 0P 01 FC:1453



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

7/26/04

Date

D. McKnight

Signature

Telephone

Number: 216 622 8200

Douglas B. McKnight

Typed or printed name

800 Superior Ave. Suite 1400

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Petition to withdraw holding of abandonment; decision on petition

Cleveland, OH 44114

Address

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

7/26/04

Date

Irene Smith

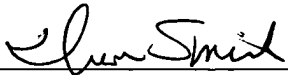
Signature

Irene Smith

Type or printed name of person signing certificate



I hereby certify that this correspondence is being deposited with the U. S. Postal Service, with sufficient postage as First Class mail in an envelope addressed to: Office of Petitions, Mail Stop Petition Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of July, 2004.

Irene Smith
(Print Name)

(Signature)

<u>Customer Number</u> 24024
--

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Zapushek)	Examiner: Suzanne Dino Barrett
)	
Serial No.: 09/780,536)	Confirmation No.: 8389
)	
Filed: February 12, 2001)	Art Unit: 3676
)	
For: PIN LOCKING DEVICE)	Attorney Docket No.: 27475/04679
AND METHOD OF LOCKING)	

AMENDMENT AFTER FINAL

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This amendment is being submitted with a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) and is made in response to the Final Office Action mailed on June 23, 2003. Please amend the application as indicated herein.

In the Claims

Please replace the following claim with the claim of the same number:

Claims 1-18 (cancelled)

19. (original) A method of locking an end of a shaft to a locking mechanism, comprising:

providing a shaft with a locking position;

providing a locking mechanism dimensioned to receive a portion of a locking section of a shaft and having a first aperture with an axis of rotation and a second aperture with an axis of rotation wherein the axis of the first aperture is eccentrically disposed with respect to the axis of the second aperture;

rotating said first aperture into alignment with said second aperture;

inserting an end of a shaft through said first aperture and said second aperture;

rotating said second aperture out of alignment with said first aperture and thereby engaging a locking section of a shaft.

20. (original) The method of claim 19, wherein rotating said first aperture into alignment with said second aperture further comprises inserting a key into a cylinder plug rotationally coupled to said first aperture and turning said key toward an unlocked position.

21. (original) The method of claim 20, wherein rotating said second aperture out of alignment with said first aperture comprises turning said key to a locked position.

22. (currently amended) A pin lock comprising:

(a) a first locking member having a locking end; and

(b) a second locking member, including:

(i) an outer housing having a first aperture dimensioned for receiving at least a portion of said locking end of said first locking member, said first aperture having a longitudinal axis;

(ii) a locking mechanism positioned inside said outer housing, at least a portion of

which is rotatable between a locked position and an unlocked position;

(iii) a locking part rotationally coupled with said portion of said locking mechanism and having an axis of rotation eccentrically disposed with respect to said longitudinal axis of said first aperture, said locking part dimensioned to interact with at least a portion of said locking end of said first locking member;

(c) a sleeve dimensioned to slide over at least a portion of said first locking member; and

(d) The pin lock of claim 10 further comprising a retaining ring disposed within the sleeve.

23. (new) A pin lock comprising:

(a) a first locking member having a locking end; and

(b) a second locking member, including:

(i) an outer housing having a first aperture dimensioned for receiving at least a portion of said locking end of said first locking member, said first aperture having a longitudinal axis;

(ii) a locking mechanism positioned inside said outer housing, at least a portion of which is rotatable between a locked position and an unlocked position; and

(iii) a locking part rotationally coupled with said portion of said locking mechanism and having an axis of rotation eccentrically disposed with respect to said longitudinal axis of said first aperture, said locking part dimensioned to interact with at least a portion of said locking end of said first locking member; wherein said locking part has an aperture dimensioned to allow passage of said locking end through said aperture when said locking mechanism is in said unlocked position and to engage said locking end of said first locking member when said locking member is in said locked position.

24. (new) The pin lock of claim 23, wherein said locking part is substantially disc shaped and the locking part aperture is a substantially wedge-shaped cutout, at least a portion of said cutout being dimensioned to engage at least a portion of said locking end of said first locking member.

25. (new) The pin lock of claim 23, wherein said locking part is a substantially disc shaped plate having a first through hole and a second through hole overlapping said first through hole, wherein

said first through hole defines a first axis and said second through hole defines a second axis with said first axis being eccentrically disposed with respect to said second axis, wherein said first through hole is dimensioned to engage at least a portion of said locking end of said first locking member.

26. (new) The pin lock of claim 25, wherein said first axis is aligned with the first aperture longitudinal axis when said locking mechanism is in said unlocked position.

27. (new) The pin lock of claim 23, wherein said locking mechanism rotatable portion includes a cylinder shell permanently fixed in said outer housing and a cylinder plug rotatably mounted in said cylinder shell.

28. (new) The pin lock of claim 27, wherein said locking mechanism rotatable portion further comprises an extension plate having a keyway and at least one pin extending therefrom and said cylinder plug includes a tail portion, and said locking part is rotationally coupled with said cylinder plug by said extension plate, said keyway is associated with said tail portion of said cylinder plug, and said at least one pin extends from said extension plate and rigidly attaches said extension plate to said locking part.

29. (new) The pin lock of claim 23, wherein said first locking member includes a shaft having a knob at said locking end, said knob defined by an annular recess in said shaft.

30. (new) The pin lock of claim 23, wherein said first locking member further comprises a retaining end including an enlarged portion.

31. (new) The pin lock of claim 23, further comprising a sleeve dimensioned to slide over at least a portion of said first locking member.

32. (new) A lock for a shaft having a tip with a locking section, said lock comprising:

(a) an outer housing having an aperture dimensioned for receiving at least a portion of a

locking section, said aperture having a longitudinal axis;

(b) a locking mechanism located inside said outer housing and rotatable between a locked position and an unlocked position; and

(c) a locking part rotationally coupled with said locking mechanism and having an axis of rotation eccentrically disposed with respect to said longitudinal axis of said aperture, said locking part dimensioned to interact with at least a portion of a locking section of a shaft, wherein said locking part has an aperture dimensioned to allow passage of at least a portion of a locking section of a shaft through the locking part aperture when said locking mechanism is in said unlocked position, and dimensioned to engage at least a portion of a locking section of a shaft when said locking mechanism is in said locked position.

33. (new) The lock of claim 32, wherein said locking part aperture is substantially wedge-shaped, and a portion of said locking part aperture is dimensioned to engage at least part of a locking section of a shaft.

33. (new) The lock of claim 32, wherein said locking part aperture includes a first through hole and a second through hole overlapping said first through hole, wherein said first through hole defines a first axis that is eccentrically disposed with respect to a second axis defined by said second through hole, said first through hole is dimensioned to engage at least a portion of a locking section of a shaft.

34. (new) The lock of claim 32, wherein said locking mechanism comprises a cylinder shell positioned inside said outer housing and a cylinder plug rotatably mounted in said cylinder shell.

35. (new) The lock of claim 34, wherein said cylinder shell is permanently fixed inside said outer housing.

36. (new) The lock of claim 35, wherein said locking mechanism further comprises an extension plate having a keyway and at least one pin extending therefrom and said cylinder plug includes a tail portion, and said locking part is rotationally coupled with said cylinder plug by said extension plate,

said keyway is associated with said tail portion of said cylinder plug, and said at least one pin extends from said extension plate and rigidly attaches said extension plate to said locking part.

REMARKS

Claims 1-22 are pending in this application. By this amendment, Claim 22 has been amended, Claims 1-18 have been cancelled and Claims 23-36 have been added as new claims.

New Claim 23 has been added and includes the elements of original Claim 2 which was indicated as allowable in the Office Action. New Claim 32 has been added and includes the elements of original Claim 12 which was indicated as allowable. The remaining of the new claims are dependent claims, each of which was previously submitted with a different original dependency. As such, Applicants believe that each of the claims now pending in this application are in condition for allowance and respectfully request indication of such. If the Examiner believes that there are any outstanding issues in this application, Applicants respectfully request that the Examiner contact the undersigned at the number listed below.

Respectfully submitted,

Date: 7/26/04

By: 
Douglas B. McKnight
Calfee, Halter & Griswold LLP
Customer No. 24024
(216) 622-8559



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Typed or Printed name of person signing this certificate:

Irene Smith

Irene Smith

Customer Number

24024

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Zapushek	:	
Serial No.:	09/780,536	:	Art Group: 3676
Filed:	February 12, 2001	:	Examiner: S. Barrett
For:	PIN LOCKING DEVICE & METHOD OF LOCKING	:	Confirmation No.: 8389
Attorney Docket No.:	27475/04679	:	

**STATEMENT OF FACT IN SUPPORT OF PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

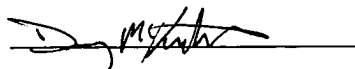
Mail Stop Petition
Commissioner of Patents
Alexandria, Virginia 22313-1450

Dear Sir:

Abandonment of the above-identified application for failure to timely respond to the Office Action dated June 23, 2003 was unintentional as Applicant have not received the Office Action. Applicants submit herewith a copy of the Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action, including a Statement of Facts, which was submitted on April 27, 2004. Applicants received a decision on the petition on June 7, 2004. Subsequent to the receipt of the decision, Applicants' counsel had multiple discussions with the Special Programs Examiner regarding the merits of the decision. Although Applicants disagree with the decision, and withhold the right to contest the decision, Applicants have nevertheless filed the Petition attached hereto in order to place the application back in good standing. Furthermore, Applicants have submitted an Amendment After Final herewith, to the Office Action that finally received on June 23, 2004.

Applicants have provided this statement of facts as proof of the circumstances that lead to the unintentional abandonment of this application. Applicant would be more than willing to produce any further information or documentation that the Patent Office deems necessary to support the enclosed petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. McKnight', is written over a horizontal line.

Douglas B. McKnight
CALFEE, HALTER & GRISWOLD LLP
(216) 622-8559



CALFEE, HALTER & GRISWOLD LLP

April 27, 2004

TO: U.S. Patent and Trademark Office
FAX NUMBER: (703) 872-9306
SEND ONLY TO THE ABOVE FAX NUMBER:



CONFIRMATION
PHONE NUMBER:

FROM: Douglas B. McKnight
DIRECT DIAL PHONE NUMBER: 216-622-8200

CLIENT NO.: 27475

MATTER NO.: 04679

CLIENT NAME: Master Lock Company

NUMBER OF PAGES (including this page): 6

MESSAGE:

In re application of:

Zapushek

Serial No.: 09/780,536

Filed: February 12, 2001

For: PIN LOCKING DEVICE & METHOD
OF LOCKING

Examiner: S. Barrett

Group Art Unit: 3676

Confirmation No.: 8389

Tech Center: 3600

Attorney Docket No.: 27475/04679

Per my conversation today with S. Barrett regarding the above application, I'm resending a Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action that was originally sent on February 2, 2004.

This facsimile transmission contains confidential and/or legally privileged information from the law firm of Calfee, Halter & Griswold LLP intended only for the use of the individual(s) named on the transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile transmission is strictly prohibited. If you have received this transmission in error, please notify us by telephone immediately so that we can arrange for the return of the documents to us at no cost to you.

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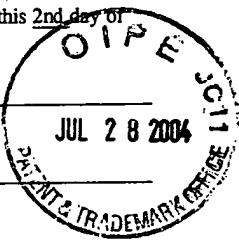
1400 McDonald Investment Center • 800 Superior Avenue • Cleveland, Ohio 44114-2688 • 216/622-8200
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(Print Name) Lori Yaneff

(Signature) *Lori Yaneff*



Customer Number

24024

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Zapushek

Serial No.: 09/780,536

Filed: February 12, 2001

For: PIN LOCKING DEVICE & METHOD
OF LOCKING

Attorney Docket No.: 27475/04679

Art Group: 3676

Examiner: S. Barrett

Confirmation No.: 8389

TRANSMITTAL OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION

Mail Stop Petition
Commissioner of Patents
Alexandria, Virginia 22313-1450

Transmitted herewith are the following:

1. Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;
2. Copy of Notice of Abandonment mailed January 7, 2004;
3. Copy of Revocation of Attorney and Appointment of New Attorney;
4. Statement of Facts in support of petition; and
5. Return Receipt Postcard.

It is believed that no further fee is required relating to the filing of these documents. If this is not the case, the Patent Office is hereby authorized to charge any related fee to Deposit Account No. 03-0172. A duplicate copy of this sheet is attached.

Respectfully submitted,

Date: 2/2/04

By: *Douglas B. McKnight*

Douglas B. McKnight, Reg. No. 50,447
216/622-8559

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Lori Yaneff



Customer Number

24024

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Zapushek

Serial No.: 09/780,536

Filed: February 12, 2001

For: PIN LOCKING DEVICE & METHOD
OF LOCKING

Attorney Docket No.: 27475/04679



Art Group: 3676

Examiner: S. Barrett

Confirmation No.: 8389

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON
FAILURE TO RECEIVE OFFICE ACTION**

Mail Stop Petition
Commissioner of Patents
Alexandria, Virginia 22313-1450

Dear Sir:

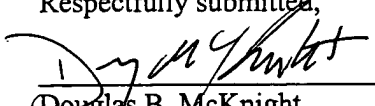
Applicants, through their attorneys, hereby Petition the Commissioner to withdrawn the holding of abandonment for the above-identified application. A Notice of Abandonment was mailed by the Office on January 7, 2004 indicating the application was abandoned for failure to reply to an Office Action dated June 23, 2003. Applicants request withdrawal of the holding of abandonment based on the non-receipt of the Office Action. Furthermore, Applicants have yet to receive the Office Action dated June 23, 2003, and as such, requests that the Office resend the Office Action, resetting the due date for response.

In support of this petition, applicants present herewith:

- (1) a statement of facts;
- (2) a copy of the Notice of Abandonment dated January 7, 2004; and
- (3) a copy of the Revocation of Power of Attorney and Appointment of New Attorney.

If any additional fee is due with this petition, please charge our Deposit Account Number 03-0172.

Respectfully submitted,



Douglas B. McKnight
Reg. No. 50,447

Certificate of Mailing

I hereby certify that this document is being deposited with the U.S. Postal Service as first class mail, in an envelope addressed to the Commissioner for Patents, MS Petition, P.O. Box 1450, Alexandria, Virginia 22313, on this 2nd day of February, 2004.
Typed or Printed name of person signing this certificate:

Lori Yaneff

Customer Number

24024

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Zapushek

Serial No.: 09/780,536

Filed: February 12, 2001

For: PIN LOCKING DEVICE & METHOD
OF LOCKING

Attorney Docket No.: 27475/04679



Art Group: 3676

Examiner: S. Barrett

Confirmation No.: 8389

**STATEMENT OF FACT IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF
ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION**

Mail Stop Petition
Commissioner of Patents
Alexandria, Virginia 22313-1450

Dear Sir:

Abandonment of the above-identified application for failure to timely respond to the Office Action dated June 23, 2003 was unavoidable as Applicant have not received the Office Action. Below is a detailed statement of facts that outlines the history of this application and the unavoidable abandonment thereof. As such, Applicants submit that a response to the Office Action could not have been submitted and that the holding of abandonment should be withdrawn.

The present application was filed February 12, 2001 and assigned serial number 09/780,536. A first Office Action was mailed on September 24, 2002. In response to the Office Action, a Response To the Office Action was mailed on March 24, 2003. On May 20, 2002 an Executed Revocation of Power of Attorney and Appointment of New Attorney was mailed to the Patent Office. The return receipt postcard was stamped by the Office of Initial Patent Examination on May 31, 2002 and returned to our offices. Unbeknownst to Applicants or their new attorneys, a second Office Action was mailed by the Patent

Office on June 23, 2002. Neither Applicants nor their attorney have received the Office Action as the second Office Action was mailed to the prior counsel. This set of facts was reviewed with the Examiner on January 5, 2004 - see the attached Interview Summary. Applicants still do not have a copy of the second Office Action.

Since Applicants are not in receipt of the second Office Action, Applicants hereby petition to have the holding of abandonment of this application withdrawn. Applicants have provided this statement of facts as proof of the circumstances that lead to the unavoidable abandonment of this application. Applicants request the re-mailing of the second Office Action and a resetting of the response due date. Applicant would be more than willing to produce any further information or documentation that the Patent Office deems necessary to support the enclosed petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. McKnight', is written over a horizontal line.

Douglas B. McKnight
CALFEE, HALTER & GRISWOLD LLP
(216) 622-8559



Serial No.: 09/780,536
Docket No.: 27475/04679
Applicant: Zapushek
Date Filed: February 12, 2001
For: PIN LOCKING DEVICE & METHOD OF LOCKING

Receipt is hereby acknowledged by the Commissioner for Patents for the following:

- Transmittal Form
- Petition to Withdraw Holding of Abandonment based on Failure to Receive Office Action
- Copy of Notice of Abandonment mailed January 7, 2003
- Copy of Revocation of Power of Attorney and Appointment of New Attorney
- Statement of Facts in support of petition
- Return Postcard

Mailed via First Class Mail, postage paid, this 2nd day of February, 2004, to Mail Stop
Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

{LY1583.DOC;1} [130] DBM/ly



Case Number 09/780,536 Sub Case 09/780,536 Action Due Date 03-Jul-2004

US

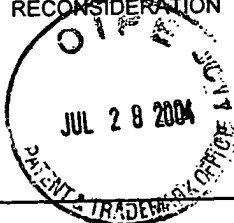
Action REQ
Type: RECONSIDERATION

REQ
RECONSIDERATION
REQ
RECONSIDERATION

03-Jul-2004

03-Aug-2004

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MAILED

JUN 13 2004

Office of the Director
Group 2300

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Verified:
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WASHINGTON DC 20001-2113

In re Application of 27475/4679
John B. Zapushek
Application No. 09/780,536
Filed: February 12, 2001
For: PIN LOCKING DEVICE AND METHOD
OF LOCKING

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed February 6, 2004.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the final Office action mailed June 23, 2003 and a Notice to that effect was mailed January 7, 2004.

Petitioner states that a Revocation and Power of Attorney/Change of Address was filed on May 20, 2002 and provides a copy of the request along with a postcard receipt stamped May 31, 2002. The petition alleges that the Office erred in mailing the Office action to the wrong address.

A review of the file reveals that the Revocation noted above is not present in the file wrapper. However, even if the request had been entered into the file, it would not have been approved because the request, signed by the "assignee", lacked a statement in accordance with 37 CFR 3.73(b) providing documentary evidence of a chain of title from the original owners to the assignee or a statement specifying where this evidence is recorded in the Office (e.g., reel and frame number).

Since the Revocation/Change of Address cannot be relied upon to show that the Office action was mailed to the incorrect address, the petition for withdrawal of the abandonment on that basis is **DISMISSED**.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.137(a)(2).

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CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$110. The fee for a petition under the unintentional standard is \$1,330. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Deputy Commissioner of Patent Examination Policy
Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9282.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

The application will be forwarded to the Files Repository to await any request for reconsideration applicants may wish to submit.



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Special Programs Examiner
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KJD/mjz: 6/1/04

cc:

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